



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/880,170	06/12/2001	Olga Milosavljevic	020425-105100US	5814
20350	7590	04/18/2011		
KILPATRICK TOWNSEND & STOCKTON LLP				
TWO EMBARCADERO CENTER				
EIGHTH FLOOR				
SAN FRANCISCO, CA 94111-3834				
EXAMINER				
OYEBISI, OJO O				
ART UNIT		PAPER NUMBER		
3695				
NOTIFICATION DATE		DELIVERY MODE		
04/18/2011		ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

Docket@kilpatricktownsend.com
ipefiling@kilpatricktownsend.com
jlhice@kilpatrick.foundationip.com



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 09/880,170
Filing Date: June 12, 2001
Appellant(s): MILOSAVLJEVIC ET AL.

Michelle Esteban
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed on 01/18/2011 appealing from the
Office action mailed 06/09/2010

(1) Real Party in Interest

The examiner has no comment on the statement, or lack of statement, identifying by name the real party in interest in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The following is a list of claims that are rejected and pending in the application:

1,2,4,5,7,9,11-20,36,39-41, and 43-48.

(4) Status of Amendments After Final

The examiner has no comment on the appellant's statement of the status of amendments after final rejection contained in the brief.

(5) Summary of Claimed Subject Matter

The examiner has no comment on the summary of claimed subject matter contained in the brief.

(6) Grounds of Rejection to be Reviewed on Appeal

The examiner has no comment on the appellant's statement of the grounds of rejection to be reviewed on appeal. Every ground of rejection set forth in the Office action from which the appeal is taken (as modified by any advisory actions) is being maintained by the examiner except for the grounds of rejection (if any) listed under the

subheading "WITHDRAWN REJECTIONS." New grounds of rejection (if any) are provided under the subheading "NEW GROUNDS OF REJECTION."

(7) Claims Appendix

The examiner has no comment on the copy of the appealed claims contained in the Appendix to the appellant's brief.

(8) Evidence Relied Upon

20020035527

Corrin

03-2002

Tracey Longo. "The First Cut is the Cheapest: Retirement distributions can come from many sources, IRAs, 401(k)s, and so on. Knowing where to start can prolong earnings growth." Financial Planning. New York: Apr 1, 1999. p.g 1).

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.

2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

7. Claims 1-2, 4-5, 7, 9, 11-20, 36, 39-41, and 43-48 are rejected under 35 U.S.C. 103(a) as being unpatentable over Corrin (US 2002/0035527 A1) in view of Longo (Tracey Longo. "The First Cut is the Cheapest: Retirement distributions can come from many sources, IRAs, 401(k)s, and so on. Knowing where to start can prolong earnings growth." Financial Planning. New York: Apr 1, 1999. p.g 1).

Re Claim 1: Corrin discloses a method for using a desktop including a display for forecasting a likelihood that a customer's assets held in a plurality of different types of customer accounts at retirement meet in-retirement goals, including, but not limited to, an annual income withdrawal goal, an estate goal, and a year retirement goal, comprising:

- Inputting said income withdrawal goal (paragraph 0028), said estate goal (paragraph 0044), said years in retirement goal (0073, 0186)), and a current asset allocation (0029) and identifying one of said in-retirement goals as a priority goals as a priority goal (0010-0011, 0028-0030)
- Performing an analysis based on said in-retirement goals and said current asset allocation (paragraph 0010).
- Forecasting, by using the results of said analysis, said likelihood that said customer assets at retirement meet said priority goal (paragraph 0010, paragraphs 0129-0176)

- Providing, using the display, a findings overview report based on said analysis, wherein the findings report includes the in-retirement goals, and the likelihood that the priority goal will be met if the in-retirement income stream withdrawal strategy is followed, wherein the likelihood is displayed as a percentage, and the findings overview report further including an asset drawn down schedule which shows predicted end of year balance for each of the plurality of customer accounts if the in-retirement strategy is followed (i.e., Corrin system provides investors with a complete account analysis and investment advisory report that quantifies meaningful saving goals, determines the effectiveness of the investor's current strategy, establishes investment performance expectations, offers investment guidance, and monitors and reevaluates their progress, see paras 0010-0011. Thus, Corrin's disclosure that his system provides investors with a complete account analysis and investment advisory report is akin to applicant's claimed limitation of providing a finding overview report based on the analysis. Further, the claim by the applicant that the finding report includes the in-retirement goals and asset drawn down schedule is met by Corrin's teaching of an advisory report that quantifies meaningful saving goals, determines the effectiveness of the investor's current strategy, establishes investment performance expectations, offers investment guidance, and monitors and reevaluates their progress, since meaningful saving goals, the effectiveness of the investor's current strategy, investment performance expectations, investment guidance encompass the in-retirement goals and asset drawn down schedule. Further still, the in-retirement goals and asset drawn down schedule are nothing but information/data which can easily be included in investment advisory report

of Corrin without altering/changing the system of Corrin), projecting annual snapshot cash flows from said current asset allocation and determining if a gap exists between projected cash flows and said income goal (paragraphs 0137-0138), providing a current performance planning table, wherein said table allows for assessing approximate current yield and total return information in order to determine which holdings of said assets provide cash flows versus growth required to meet said in- retirement goals (0084-0144, especially 0143-0144), and further wherein said current performance planning table includes information on each asset's annual income, 1-year and 5-year total returns, and current value (note that Corrin discloses a performance planning table which includes various information, see pars 0084-0141. Corrin table shows value of the account balances, returns and the expected returns (see paras 0144, also paras 0346 "compounded return table"). The examiner contends that 1-yr and 5-year total returns are nothing but expected returns, which are explicitly taught by Corrin (see paras 0144).

Corrin does not explicitly disclose the step of:

- Providing an in-retirement income stream withdrawal strategy, wherein said income stream strategy withdrawal provides tax advantages and wherein said income stream withdrawal provides for a first time period and said income stream withdrawal strategy avoids withdrawal of assets from tax deferred accounts during the first time period; and said income stream- withdrawal strategy providing for withdrawal from one or more tax deferred accounts during a second time period. However, Longo discloses a system for a retirement strategy for tax efficient withdrawals wherein assets are drawn first from taxable accounts followed, at a later time by withdrawing from tax deferred accounts

(see abstract and entire article). Thus It would have been obvious to a person' of ordinary skill in the art at the time of invention to include the teachings of Longo to the disclosure of Corrin so that a person in retirement can extend the life of their assets and achieve the most efficient withdrawal strategy possible.

Claim 46. Claim 46 recites similar limitations to claim 1 and thus rejected using the same art and rationale as in claim 1 supra.

Re Claims 2: Corrin in view of Longo discloses the claimed method and Corrin discloses the claimed method supra and further discloses wherein said forecasting is based on outside (paragraph 0279-0282) and inside holdings (paragraph 0029 "current account balance.")

Re Claim 4: Corrin in view of Longo discloses the claimed method and Corrin discloses the claimed method supra and further discloses wherein said cash flows comprise dividend and interest sources (0048) and non-fluctuating sources (0086-0093).

Re Claim 5: Corrin in view of Longo discloses the claimed method and Corrin discloses the claimed method supra and further discloses wherein said dividend and interest sources comprise equity dividend, fixed income, and cash payments (0261 and 0280-0283)) and wherein said non-fluctuating sources comprise income property, social security, and pension payments (0086-0093)

Re Claim 7: Corrin in view of Longo discloses the claimed method and Corrin discloses the claimed method supra and further discloses the step comprising generating a current summary showing a breakdown of said cash flows into said dividend and interest sources (0144-0150), said non-fluctuating sources (0097-0102), total cash flow

and said income goal (0137-0138).

Re Claim 9: Corrin in view of Longo discloses the claimed method supra and while not explicitly disclosing the step wherein said withdrawal strategy further comprises designating when and how much to withdraw from taxable, 401 K, traditional IRA and Roth IRA accounts. Official notice is taken that this is a well known practice in the art. For example, there are tax related penalties related to the early withdrawal of funds from a Roth IRA account. If a user withdraws funds before the age of 59 ½ years there is a steep tax placed on the amount of withdrawal. Therefore, a prudent withdrawal strategy would be to refrain from withdrawing from this account until the appropriate time, and furthermore if it was vital for funds to be withdrawn, the strategy would further call for an amount representing the absolute minimum be withdrawn so that the remainder of the money in the account can continue to accumulate. Thus this step would have been obvious to anyone of ordinary skill in the art at the time of invention and one of ordinary skill would have been motivated to incorporate this old and well known scheme in Corrin so that the remainder of the money in the account can continue to accumulate.

Re Claim 11: Corrin in view of Longo discloses the claimed method supra and while the references do not explicitly disclose the step comprising determining required minimum distribution income streams based on total value of tax deferred assets, this step would have been obvious to anyone of ordinary skill in the art, as such withdrawals were required by law. For example, in a traditional IRA, which is tax deferred, participants are required to make withdrawals at the age of 70 --½, so that the earnings can be taxed

out. The minimum withdrawal is a rate based on life expectancy and therefore the amount of withdrawal would necessarily depend on the total value of the assets. Since these withdrawals are mandatory, it would therefore further be obvious to factor these into the withdrawal strategy, or else said strategy will ultimately become inaccurate.

Re Claim 12: Corrin in view of Longo discloses the claimed method supra and Corrin further discloses generating a report showing annual tax-deferred account withdrawals and year-end tax deferred account balances (0216-0220).

Re Claim 13: Corrin in view of Longo discloses the claimed method and Corrin discloses the claimed method supra and further discloses providing financial (0211; increase contribution) and non-financial (0228 "increase working years") alternatives in order to attempt to increase said likelihood of meeting retirement goals.

Re Claims 14, 44: Corrin in view of Longo discloses the claimed method and Corrin discloses the claimed method supra and further discloses wherein said non-financial alternatives increase said likelihood by requiring a relaxing of at least one of said in-retirement goals (0028). In increasing the working years before retirement, the user is essentially decreasing the total number of years the user intends to spend in retirement.

Re Claim 15: Corrin in view of Longo discloses the claimed method and Corrin discloses the claimed method supra and further discloses wherein said financial alternatives attempt to increase said likelihood by altering said asset allocation and thereby assuming a better diversified portfolio (0259-0261).

Re Claim 16: Corrin in view of Longo discloses the claimed method and Corrin discloses the claimed method supra and further discloses generating a report showing

said in- retirement goals and said likelihood versus said modified in-retirement goals, said modified in-retirement goals comprising said at least one of said relaxed in-retirement goals, and showing said subsequent possible increased likelihood (0263-0278).

Re Claim 17: Corrin in view of Longo discloses the claimed method and Corrin discloses the claimed method supra and further discloses generating a report showing using the display, said in- retirement goals and said likelihood versus said altered asset allocation, and showing using the display said subsequent possible increased likelihood (0213-0216 and 0263-0278)

Re Claim 18: Corrin in view of Longo discloses the claimed method and Corrin discloses the claimed method supra and further discloses wherein asset allocation preferences are incorporated (0260-0262).

Re Claim 19: Corrin in view of Longo discloses the claimed method and Corrin discloses the claimed method supra and further discloses providing action plans for attempting to increase said likelihood, said action plans comprising means for conveying whether to buy or sell said assets (0259-0262).

Re Claim 20: Corrin in view of Longo discloses the claimed method and Corrin discloses the claimed method supra and further discloses wherein each asset class holding are separated from each other and small company holdings are separated from large, international and fixed income company holdings (0261).

Re Claim 36: Corrin further discloses a performance planning report which identifies each of the assets held in the customer accounts and provides a projected annual cash

flow (0046, 0048), an approximate current yield (0264), a historical total return (0029, 0037 'expected growth), and an approximated current value for each asset (0087), to assist the customer in assessing their assets on an income versus growth basis.

Re claim 39. Corrin further discloses the method further comprising acquiring an asset's current price through an existing, internal data feed updated nightly ((paragraph 0072-0073).

Re claim 40. Corrin further discloses the method, further comprising alerting a user when a cash flow analysis indicates a problematic fluctuation (see paras 0141)

Re claim 41. Corrin does not explicitly disclose the method, wherein the problematic fluctuation is indicated by a period wherein an actual monthly cash flow generated falls below a monthly cash flow goal by five percent or more. However, This limitation is only describing the problematic fluctuation which is a descriptive non-functional element which carries no patentable weight.

Re claim 43. Corrin further discloses the method, further comprising the step of calculating a percentage of dividends a customer is currently reinvesting versus accessing (see paras 0143).

Claim 45. Claim 45 recites similar limitations to claim 11 and thus rejected using the same art and rationale as in claim 11 *supra*.

Claim 47. Claim 47 recites similar limitations to claim 39 and thus rejected using the same art and rationale as in claim 39 *supra*.

Claim 48. Claim 48 recites similar limitations to claim 40 and thus rejected using the same art and rationale as in claim 40 supra.

(10) Response to Argument

In Response to the appellant's argument regarding the rejection of Claims 1, 2, 4, 5, 7, 9, 11-20, 36, 39-41, and 43-48 under 35 U.S.C. §103(a) as Being Obvious over Corrin in View of Long.

The appellant argues in substance that the prior arts of record fails to disclose a current performance planning table, wherein said table allows for assessing approximate current yield and total return information. Contrary to the applicant's assertion, Corrin discloses returns chart and table which calculates the periodic yield and return of an investment portfolio (see paras 0346). The examiner contends that the return chart and table, as taught by Corrin, is a akin to the appellant performance planning table.

The appellant further argues that the prior arts fail to disclose "wherein said current performance planning table includes information on each asset's annual income, 1-year and 5-year total returns, and current value." Contrary to the applicant's assertion, Corrin table shows value of the account balances, returns and the expected returns (see paras 0144 and 0346). The examiner contends that 1-yr and 5-year total returns are nothing but expected returns or even periodic returns, which are explicitly taught by Corrin (see paras 0144 and 0346).

The appellant further argues that the prior arts fail to disclose providing a findings overview report based on said analysis, wherein the findings report includes an asset drawn down schedule which shows predicted end of year balance for each of the plurality of customer accounts if the in- retirement strategy is followed. The examiner contends that Corrin system provides investors with a complete account analysis and investment advisory report that quantifies meaningful saving goals, determines the effectiveness of the investor's current strategy, establishes investment performance expectations, offers investment guidance, and monitors and reevaluates their progress, see paras 0010-0011. Thus, Corrin's disclosure that his system provides investors with a complete account analysis and investment advisory report is akin to applicant's claimed limitation of providing a finding overview report based on the analysis. Further, the claim by the applicant that the finding report includes the in-retirement goals and asset drawn down schedule is met by Corrin's teaching of an advisory report that quantifies meaningful saving goals, determines the effectiveness of the investor's current strategy, establishes investment performance expectations, offers investment guidance, and monitors and reevaluates their progress, since meaningful saving goals, the effectiveness of the investor's current strategy, investment performance expectations, investment guidance encompass the in-retirement goals and asset drawn down schedule. Further still, the in-retirement goals and asset drawn down schedule are nothing but information/data which can easily be included in investment advisory report of Corrin without altering/changing the system of Corrin.

The appellant further argues that the prior arts fail to disclose "The summary of finding report", as recited in claim 46. Contrary to the applicant's assertion, the system of Corrin provides investors with a complete account analysis and investment advisory report that quantifies meaningful saving goals, determines the effectiveness of the investor's current strategy, establishes investment performance expectations, offers investment guidance, and monitors and reevaluates their progress. Through a form of artificial intelligence, the invention brings the same sophisticated investment analysis techniques used by large pension plans and money managers to the individual investor, allowing him to interpret account statement information from current and previous periods and easily relate it to two quantifiable goals. Thus, Corrin's disclosure that his system provides investors with a complete account analysis and investment advisory report is akin to applicant's claimed limitation of providing "The summary of finding report."

The appellant further argues that the prior arts of record fail to disclose the step wherein said withdrawal strategy further comprises designating when and how much to withdraw from taxable, 401 K, traditional IRA and Roth IRA accounts, as recited in claim. Official notice is taken that this is a well known practice in the art. For example, there are tax related penalties related to the early withdrawal of funds from a Roth IRA account. If a user withdraws funds before the age of 59 ½ years there is a steep tax placed on the amount of withdrawal. Therefore, a prudent withdrawal strategy would be

to refrain from withdrawing from this account until the appropriate time, and furthermore if it was vital for funds to be withdrawn, the strategy would further call for an amount representing the absolute minimum be withdrawn so that the remainder of the money in the account can continue to accumulate. Thus this step would have been obvious to anyone of ordinary skill in the art at the time of invention and one of ordinary skill would have been motivated to incorporate this old and well known scheme in Corrin so that the remainder of the money in the account can continue to accumulate.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

/OJO O OYEBISI/

Primary Examiner, Art Unit 3695

Conferees:

/Charles R. Kyle/

Supervisory Patent Examiner, Art Unit 3695

Vincent Millin /vm/

Appeals Conference Specialist

